

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

October 11, 2007

FILED

OCT 31 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

THEOTIS GOLDEN,

Plaintiff - Appellant,

v.

GEORGE W. KENNEDY, District
Attorney; et al.,

Defendants - Appellees.

No. 07-16669

D.C. No. CV-06-05215-JW

REFERRAL NOTICE

This matter is referred to the district court for the limited purpose of determining whether this appeal has been taken in good faith or is frivolous. *See* 28 USC Sec. 1915(a)(3).

If the district court is of the opinion that this appeal is frivolous or not taken in good faith, the district court is requested to complete the attached certification form and return it to this court within 21 days. If this court does not receive a completed certification form within 21 days, it will presume that the district court considers the appeal to have been taken in good faith.

This referral shall not affect the briefing schedule previously established by this court.

FOR THE COURT:

Cathy A. Catterson
Clerk of Court



By: Jeffery Crocker
Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA (San Jose)

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ORDER

This appeal has been taken in good faith []

This appeal is not taken in good faith [x]

Explanation: Plaintiff failed to file an amended complaint
in the time provided. Case was dismissed pursuant to
Federal Rule of Civil Procedure 41(b), with prejudice.
for failure to prosecute.

James Moore
Judge
United States District Court

Date: OCT 24 2007